

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

March 28, 2002

DIVISION ONE

B149927 People (Not for Publication)
v.
Roberto Paredes

The judgment of conviction is affirmed. The trial court's finding that defendant suffered a prior serious felony conviction is reversed. The jury's finding that defendant suffered a prior serious or violent felony conviction within the meaning of sections 667, subdivisions (b) through (i) and 1170.12 is stricken, and the sentence is vacated. The matter is remanded to the trial court for a new trial on the prior serious felony enhancement allegation and for resentencing.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
Mallano, J.

B146452 People (Not for Publication)
v.
Jonathan Gonzalez

Defendant's four-year enhancement term on count 3 is vacated. The trial court is directed to prepare a corrected abstract of judgment reflecting such change and forward it to the Department of Corrections. As modified, the judgment is affirmed.

Mallano, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

DIVISION ONE (Continued)

B142236 People v. Kenneth Crandell (Not for Publication)
B153078 In re Crandell on Habeas Corpus

The judgment is affirmed. The petition for writ of habeas corpus is denied.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

B148190 People (Not for Publication)
v.
Esteban Sifuentes

The judgment is modified by striking the five-year conviction enhancement imposed pursuant to section 667, subdivision (a)(1), on count 2 and by staying the sentence imposed on count 3 pursuant to section 654. As modified, the judgment is affirmed. The clerk of the trial court is directed to prepare an amended abstract of judgment and to forward it to the Department of Corrections.

Spencer, P.J.

I concur: Mallano, J.
I dissent and concur: Ortega, J. (Opinion)

DIVISION ONE (Continued)

B150892 People (Not for Publication)
v.
Jason Okezie

Insofar as the trial court's order in Case No. LA012215 (the old case) denied Okezie's motion to vacate his no contest plea to the count 3 robbery charged in that case, the order is reversed, and the cause is remanded to the trial court with directions to enter a new order vacating Okezie's conviction of count 3 (as well as count 2); in all other respects, the order is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Mallano, J.

B146918 Schoendorf
v.
U.D. Registry, Inc., et al.

Filed order modifying opinion in it's entirety. Petition for rehearing is denied. Opinion certified for publication. (No change in the judgment)

B146907 Moehlman
v.
De La Sota

Filed order denying petition for rehearing.

B146236 Young
v.
Gannon
Dept of Industrial Relations

Filed order certifying opinion for publication.

DIVISION ONE (Continued)

B152079 Gamble (Certified for Publication)
v.
Dept of Water & Power et al.

The judgment (order denying costs) is reversed and the cause is remanded to the trial court (specifically, to Judge Sarmiento) with directions to hear and determine the Department's motion for costs. The parties are to pay their own costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B147198 People (Not for Publication)
v.
Gilbert Madrid

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B151682 People (Not for Publication)
v.
Shawn Beavers

The judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.
Mallano, J.

March 28, 2002-Continued

DIVISION ONE (Continued)

[illegible]

The judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.
Mallano, J.

B152026 People (Not for Publication)
v.
William Anderson

The judgment is affirmed.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.
Mallano, J.

B149980 People (Not for Publication)
v.
Rudy Betancourt

The judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.
Mallano, J.

DIVISION ONE (Continued)

[illegible]

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Mallano, J.

B146693 Kalonji (Not for Publication)
v.
Williams II

The judgment is affirmed.

Spencer, P.J.

I concur: Mallano, J.
I concur in judgment only: Vogel (Miriam A.), J.

B137761 Renteria (Not for Publication)
v.
Custom Fiberglass Manufacturing Co.

The judgment and order are affirmed. The parties are to bear their own costs on appeal.

Spencer, P.J.

I concur: Ortega, J.
I concur in the judgment only: Vogel (Miriam A.), J.

DIVISION ONE (Continued)

B145494 Perez (Not for Publication)
v.
City of Compton

The judgment is affirmed. The City of Compton is awarded its costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B144352 County of LA (Not for Publication)
v.
Frontier Pacific Insurance Co.

The order is reversed and the cause is remanded to the trial court with directions to enter a new order denying Frontier's motion to set aside the summary judgment. The County is entitled to its costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Mallano, J.

B149745 Children's Wonderland, Inc. (Not for Publication)
v.
Diversified Intergenerational Care, Inc. et al.

The judgment is affirmed. CWI is awarded its costs of appeal, including attorney's fees in an amount to be fixed by the trial court on noticed motion made after this opinion becomes final.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Mallano, J.

DIVISION ONE (Continued)

B152188 Braco (Not for Publication)

v.

Superior Court of Los Angeles
(4600 Sunset Blvd., Inc., et al., r.p.i.)

The petition is granted in part, and a writ shall issue commanding the trial court to vacate its July 27, 2001, order and issue a new order (1) denying the seven motions to strike *except* insofar as they attack Braco's prayer for "disgorgement of profits and/or restitution to customers," (2) reinstating all 23 complaints or, in any case in which an amended pleading was previously filed, the pleading that was operative before the July 27, 2001, rulings (which complaints shall be deemed amended to delete the prayer for disgorgement and restitution), and (3) ordering the defendants to *answer* the complaints by a date to be determined by the trial court. In all other respects, the petition is denied. On remand, the case shall be assigned to a judge other than Judge Shook. Braco is entitled to her costs of these writ proceedings.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Mallano, J.

B149190 People (Not for Publication)

v.

Smith

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Ortega, J.

DIVISION TWO

Court convened at 9:00 A.M.

Present: Boren, P.J., Nott, J., Doi Todd, J., Ashmann-Gerst, J. and Jim Guzman, Deputy Clerk.

Each of the following:

B145390 People v. Martinez
B149967 People v. Skinner
B150789 People v. Rowland and Gamble
B144049 People v. Banks
B152075 Banks on Habeas Corpus
B152027 People v. Balsz
B151089 People v. Baldwin
B136560 People v. Brown
B151373 People v. Hernandez
B149975 People v. Sanders
B155384 Sanders on Habeas Corpus
B153093 People v. Hawkins
B151402 People v. Adams
B151041 D.C.F.S. v. Carey C.
B151380 D.C.F.S. v. Armando V.
B151899 D.C.F.S. v. Renee H.
B155680 Carey C. v. S.C.L.A. and D.C.F.S.
B151548 D.C.F.S. v. Ronald B.
B151799 XL Specialty v. Bullocks Express
B150916 People v. Blackston

Argument waived, cause submitted.

B151120 People
 v.
 Pimpton

Merits:

Argued by William Bartz for appellant and by Lawrence Daniels for respondent. Cause submitted.

DIVISION TWO (Continued)

B152254 Keller
 v.
 Keller

Merits:
Argued by Joan Hewitt for appellant and by Lowell Dosch for respondent.
Cause submitted.

B133493 Tober
 v.
 Lloyd

Merits:
Argued by Rees Lloyd for appellant and by Gerald Serlin for respondent.
Cause submitted.

Nott, J. and Ashmann-Gerst, J. leave bench

Cooper, J. (Assigned) takes bench

B136083 Pasternak
 v.
 Ecrow Agents Fidelity

Merits:
Argued by Michael Evans and Gerald Clausen for appellant and by Holly
Fujie for respondent. Cause submitted.

Court in recess

Court reconvened at 12:45 P.M.

Present: Boren, P.J., Nott, J., Doi Todd, J., Ashmann-Gerst, J. and Jim Guzman, Deputy
Clerk.

DIVISION TWO (Continued)

B152703 Bradford and Moore
 v.
 American Society Composers
 and
 Broadcast Music & Frances Preston

No appearance by appellants. Counsel for respondents Kurt Fritz and Peter Smoot submit on the briefs. Cause submitted.

B150230 Superior Galleries
 v.
 Palmer

Merits:
Argued by Ira Cohen for appellant and by John Kurtz for respondent.
Cause submitted.

B147545 Kang
 v.
 Kang

Merits:
Argued by Bonnie Marshall for appellant and by Erica Kim for respondent.
Cause submitted.

Court adjourned.

DIVISION TWO (Continued)

B141404 Schiendelman (Not for Publication)

v.

First Federal Bank of California

The orders awarding attorney fees and costs are affirmed. The judgment is reversed and the matter remanded to the trial court with directions to enter judgment in favor of Schiendelman and against First Federal as follows: (1) on the negligence cause of action, damages in the principal amount of \$44,982.87; (2) on the contract cause of action, damages in the principal amount of \$151,206.95, plus prejudgment interest on \$218,135.46 from May 19, 1999 to September 2, 1999 and on \$151,206.95 thereafter until entry of judgment; (3) postjudgment interest on the principal and prejudgment interest on each cause of action at 10 percent per annum, (4) attorney fees of \$255,939.15, and (5) costs in the amount of \$57,364.25. Schiendelman shall have the right to elect recovery under either the negligence or contract cause of action. Each side is to bear its own attorney fees and costs on appeal.

Doi Todd, J.

We concur: Boren, P.J.
 Nott, J.

DIVISION THREE

B149192 People v. Jones (Not for Publication)

B155327 In re George R. Jones on H.C.

The judgment is affirmed. The petition for writ of habeas corpus is denied.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Kitching, J.

DIVISION THREE (Continued)

B146739 People (Not for Publication)
v.
Marcus D.

The juvenile court is ordered to issue an amended minute order reflecting imposition of a \$100 restitution fine (Welf. & Inst. Code, 730.6, subd. (b)(1)) and a maximum confinement term of 10 years. In all other respects, the order of wardship is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Kitching, J.

B148635 People (Not for Publication)
v.
Adame

The judgment is affirmed.

Croskey, J.

We concur: Klein, P.J.
Aldrich, J.

B151587 People (Not for Publication)
v.
Egal

The judgment is affirmed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION THREE (Continued)

B152423 People (Not for Publication)
v.
Graham

The judgment is modified by striking both the Penal Code section 1202.4, subdivision (b), restitution fine in the amount of \$300, and the suspended Penal Code section 1202.45, parole revocation fine in the amount of \$300, and by imposing a suspended Penal Code section 1202.45 parole revocation fine in the amount of \$200 and, as modified, the judgment is affirmed. The trial court is directed to forward to the Department of Corrections a copy of an amended abstract of judgment reflecting the above modifications and the trial court's imposition of a Penal Code section 1202.4, subdivision (b), restitution fine in the amount of \$200.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

B150749 People (Not for Publication)
v.
Morris

The judgment is affirmed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B148742 People (Not for Publication)
v.
Zepeda

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

March 28, 2002-Continued

DIVISION THREE (Continued)

B151910 People (Not for Publication)
v.
Archuleta

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B145971 People (Not for Publication)
v.
Ramirez

The judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Kitching, J.

B140921 Matthews
v.
International Longshoremen's & Warehousemens's Union

Filed order vacating submission order of December 12, 2001. Due to the press of other court business and the complexity of the issues, additional time is needed to complete and file the opinion in this matter. Cause resubmitted.

B152512 National Technical Systems
v.
Superior Court, Los Angeles County
(United Pacific Insurance Company, r.p.i.)

Filed order vacating submission order of December 11, 2001. Due to the press of other court business and the complexity of the issues in this case, additional time is needed to complete and file the opinion in this matter. Cause resubmitted.

DIVISION THREE (Continued)

B146222 Charles Dunn Company, Inc.
v.
Grund et al.

Filed order vacating submission order of December 11, 2001. Due to the press of other court business and the complexity of the issues in this case, additional time is needed to complete and file the opinion in this matter. Cause resubmitted.

DIVISION FIVE

B133309 People (Not for Publication)
v.
Smith

The judgment of conviction is reversed and this matter is ordered dismissed.

Armstrong, J.

I concur: Mosk, J.
I dissent and concur: Grignon, Acting P.J. (Opinion)

DIVISION SIX

B148128 Swanson
v.
St. John's Regional Medical Center

Filed order certifying opinion for publication and denying rehearing.

DIVISION SEVEN

B140133 Bechtel Petroleum Operations, Inc.
v.
Continental Insurance Company et al.

Filed order modifying opinion. (No change in the judgment)

DIVISION EIGHT

B154896 Eugenia C. (Not for Publication)
v.
Superior Court, Los Angeles County
(Los Angeles County Department Of Children And Family Services, r.p.i.)

The petition for writ of mandate is denied on the merits. This opinion is final as to this court forthwith. (Cal. Rule of Court, rule 24(d).)

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

B147964 People (Not for Publication)
v.
Damien Paul Humphrey

The judgment is reversed and the cause remanded for retrial.

Boland, J.

We concur: Cooper, P.J.
Rubin, J.

B147754 Karoun Dairies, Inc., et al.
v.
Multivac, Inc., et al.

Filed order denying petition for rehearing.